

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

CORAM: Shri M. S. Keny, State Chief Information Commissioner

Complaint No. 219/SCIC/2010

Shri Kashinath Shetye,
R/o. Bambino Building,
Alto Fondvem, Ribandar
Tiswadi – Goa

..... Complainant.

V/s.

Public Information Officer,
Department of Information and Publicity,
Panaji - Goa.

..... Opponent/Respondent.

Ms. Sonia Satardekar, representative of the Complainant.
Adv. K. L. Bhagat for the Opponent.

ORDER
(07-09-2010)

1. The Complainant, Shri Kashinath Shetye, has filed this Complaint praying that information as requested by the Complainant be furnished to him correctly free of cost as per section 7(6) and as per circular and the annexure I to V; that penalty be imposed on P.I.O. as per law for denying the information to the Complainant; that compensation be granted and that inspection of documents be allowed.

2. The gist of Complainant's case is as under: -

That the Complainant had filed an application dated 14/1/2010 under Right to Information Act, 2005 ('RTI' Act for short) thereby requesting the Public Information Officer, Department of Information Technology to issue information specified therein, which was transferred as per section 6(3) of the RTI Act to the Opponent. That the Public Information Officer ('P.I.O')/Opponent failed to furnish the required information as per the application of the Complainant and that no inspection of information was allowed. Considering the said non-action on behalf of Opponent of the RTI Act the Complainant preferred this Complaint on the grounds as set out in the Complaint.

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3. The Opponent resists the Complaint and the reply of the Opponent is on record. It is the case of Opponent that the present Complaint does not fall within the ambit of section 18 of the RTI Act and hence ought to be dismissed in limine. That the Complaint is premature as the Complainant has not taken recourse to approaching First Appellate Authority and as such liable to be dismissed. That no information is refused to the Complainant. That the present case does not fall within the ambit of transfer u/s. 6(3) as the Complainant cannot make an application to the Public Information Officer of one Department and request him to furnish the information pertaining to information or documents of other Government Departments. That the Complainant was aware that said information was not available with the Public Information Officer of the Department of Information Technology. That the Complainant ought to have filed fresh and specific application to the Public Information Officer/Opponent. On merit, it is the case of the Opponent that Public Information Officer, Information Technology vide his letter dated 25.01.2010 transferred the request of the said item No. 3 under the provisions of section 6(3) (ii) of the RTI Act to the Opponent herein. That the Opponent vide his letter dated 25.02.2010 furnished the information on point No. 3 to the Complainant and the copy of the said letter was endorsed to the Public Information Officer, Department of Information Technology. It is the case of the Opponent that information was furnished to the Complainant and that no information is refused to the Complainant and that too has been done within thirty days from the receipt of the letter. That no inspection was sought. It is further the case of the Opponent that the grounds mentioned in the Complaint are not attracted. According to the Opponent the Complaint is liable to be dismissed.

4. Heard the arguments of the representative of the Complainant and Adv. K. L. Bhagat for the Opponent and perused the records of the case. It is seen that the Complainant has sought certain information from the Public Information Officer,

Department of Information Technology. By letter dated 25.01.2010 the Public Information Officer, Department of Information Technology transferred the application u/s. 6(3) in respect of point at Sr. No. 3, so also to give a suitable reply to the Opponent herein. It is seen that by letter dated 25.02.2010 the Opponent sent the information to the Complainant. That the letter u/s. 6(3) was received by Opponent on 29.01.2010 and the reply was sent on 25.02.2010. Considering this the information was sent within the stipulated time. It is seen that whatever information was available was furnished. It is to be noted that a citizen can seek only information which is available with the Public Authority in material form. In short, what is available is to be furnished.

5. It is the contention of the Complainant in the Complaint that no information is furnished and that the information has five enclosures, i.e. annexure I to V. As observed above that whatever information was available has been furnished. Non-existent information cannot be furnished under RTI. I have perused the letter as well as the enclosures, i.e. Index in annexure I. Advocate for Opponent submits that they are maintaining File Movement Index in the old format. However, they will maintain in future as per the circular of Chief Secretary.

6. Regarding maintainability of the Complaint, I am in agreement with Adv. K. L. Bhagat when he contends that Complaint is not maintainable. However in view of the above statements we need not touch this aspect even though Complaint is premature.

7. I have perused the said circular dated 09.06.2010, the Xerox copy of which is on record. The same aims at speedy disposal of files and curtails delays and to some extent shows accountability. In any case there is no harm if this is implemented by the office of the Opponent herein.

8. Coming to the prayers, section 7(6) is not attracted in view of all the above. Since there is no delay question of penalty does not arise. So also question of compensation does not arise.

9. In view of all the above I pass the following Order:

O R D E R

The Opponent to follow the said Circular dated 09.06.2009 and maintain the File Movement Index as per the said circular and in five annexures - I to V. No further intervention of this Commission is required. The Complaint is disposed off.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 07th day of September, 2010.

Sd/-
(M.S. Keny)
State Chief Information Commissioner

GSIC/Complaint No.219/SCIC/2010
Goa State Information Commission
Shrama Shakti Bhavan, Gr. Floor,
Patto Plaza, Panaji-Goa

09.09.2010

To,

- 1) Shri Kashinath Shetye,
R/o. Bambino Building.
Alto Fondvem, Ribandar
Tiswadi – Goa
- 2) Public Information Officer,
Department of Information and Publicity,
Panaji - Goa.

Sub: Complaint No. 219/SCIC/2010.

Sir,

I am directed to forward herewith copy of the Order dated 07th September, 2010 passed by the Commission in the above referred Complaint for your information and necessary action.

Yours faithfully,

(Meena H. Naik Goltekar)
Under Secretary-cum-Registrar

Encl: As above.

